App F IX 4

1941

File No 56-41

Previous References

(TC)

Serial Nos 142, 143, 153

hl 86-39-91, 92, 93
hl 36-36-64, 65
ml 74-37-17, 24, 25, 35, 36, 37

Later References

M 56-42-57 58

GENERAL AND REVENUE SECRETARIAT.

Serial Nos

Part B for March 42

SUBJECT

Election of a non-official President for Trincomalee Town Council

To,

The Colombo

L 8335/13342

Notice the —

Secy
3/4/42

Serial No

Letter no A 6 c 2919/41-42 dated 26-1-42 from the Deputy Commissioner Tumkur Dist; Soliciting, in the circumstances stated, instructions as to whether the election of the President of the Tumkur Town Municipal Council may be held before the occurrence of the vacancy of that office

1 Tumkur is a Town Municipal Council and it is having the privilege of electing a non-official President

2 The term of the elected President of this Municipality is limited to one year and fresh election therefor is being held every year

3 The term of the present President of the said Municipal Council expires on 5-2-42 and fresh election for that office is proposed to be held on 31-1-42

4 Under the rules relating to the election of Presidents of Town Municipal Councils fresh election has to be held on a day

NOTE—Cont Sheet

WD 04155—GPB—55 000—23 10 41

Election of non-official president for the Tuticorin Town Municipal Council

ML File No 4341/2 of 1941 — General and Revenue Secretariat

Serial No

Not later than two months from the date of occurrence of the vacancy C.E.S. 2-42 and therefore the proposed election will not be in accordance with the existing rules as the office of the President would not be vacant on 31-1-42

Submitted

28/1/42 The expression 'not later than' in the Election rules is elastic & does not perhaps rule out an earlier election. The words 'date of occurrence of vacancy' appear only to conclude the context & do not seem to embody a mandatory limit of time beyond which only an election could be held.

In Bihar, a resolution was entertained and the election took place well in time before the occurrence of the vacancy has been appd by the Govt also. May the Govt also be consulted?

28/1/42 6 Please put up Mil 74-37-24 Flag B which modifies the proviso to Rule (1) of the Rules relating to the election of Chairman & Vice Chairmen in any City Municipality so as to enable the election in a City Municipality to be held even during the term of office of a President & Vice President.

29/1/42

The collection referred to is submitted

29/1/42

29/1

Serial No

7 The rules regulating the election of President of Zam Federation which were issued in the year 1929 & they are in force at present

9 Under the proviso to Sec 23 (12) of the Myanmar Zam Fed Act 1937 the terms of office of the President & Vice President of the Zamtun Zam Fed Co are limited to one year & elections therefor will have to be held every year There is however no provision in the election rules referred to above, providing for the period within which the elections may be held in such cases

10 A similar question was raised in the year 1937 in respect of the election of President & Vice President in Bayalun Sub Fed & the election rules were amended suitably providing for such cases, in notn no 2 57/37/ML 24-37-24 Dy 4th January 1938 The election rules in the case of Zam Federation Ltd also will also have to be similarly amended This will be done if approved

11 The Dy Commissioner Dagon has intimated instructions of the election to the Vice President may be held on 31/1/42, according to the calendar already issued

NOTE—Contn Sheet

WD 04155—G1B—55 000—23 10 41

Election of non-official President for the Tumkur Town Municipal Council (3)

11 File No of 1941 General and Revenue Secretariat

Serial No

by the President the intention of the election rules appear to be that an election for the office of the Deputy President could be held only after the vacancy actually occurs In this case, a vacancy has not yet occurred and it would not be in order to hold the election further, in the proviso to rule 4 the words "during the said period of one or two years as the case may be" will also have to be omitted

12 As the election as stand if came off on 31 1 1942, - immediate orders have perhaps to be issued

In order

Lewis Esq - for

Sd/ illegible

SECY LAW DEPT 899 - 2 - 1 - 2 GOVT OF MYSORE

13 Rule 1 of the Rules relating to the election of Presidents of Town & Minor Municipalities merely prescribes the outer limit for holding the elections It does not lay down that an election held during the term of a President, whose term of office is known to expire on a definite date, is illegal It is better to have the elections in case of Town & Minor Municipalities on line with that of the Bangalore City Municipality

Sd/ illegible 4-5-41

Election of new President, Tumkur Town MC

4342

General and Revenue Secretariat — File No — of 1941 — [App F III-2

Serial No	
	Where the election is held before the expiry of the term of the existing President Hence the holding of the election is not against the Rule.
Calander 14	The amendment of the Rule may be taken up separately.
1	There is no need to give instructions to the D C The parties may after election contest the same according to law They may raise this point also, if they think that the holding of the election is illegal

OFFICE FOR 29 JAN 1942 No 4333

Minister for Finance — 16/1/42 — Hm 2 29/1/42 for 30/1

Hm 2 30/1/42 Lr 30/1/42

Received instructions that the D C Tumkur need not be addressed in view of the orders passed above

Kmr 30/1/42 MKHS

Letter no A-6 C. 2919/41-42 dated 16-2-42 from the Deputy Comr, Tumkur forwarding a report on the election of the president, Tumkur Town MC

The report of the Dy Comr Tumkur is submitted for perusal

19/2/41 As seen from the records enclosed that the election of the president

NOTE—Cont Sheet

WD 04155—GPB—5 000—23 10 41

Election of President — Tamakuri Town Rd et al

ML File No of 1941

General and Revenue Secretariat

Serial No

was, according to the Calendar of events published for the purpose, to have been held on 31-1-42 As it was subsequently found by the President that 15 days' notice of the date of election (as required under proviso to rule 1 of the Rules regulating the election of Presidents of Town and Minor Mdbds) was not provided for in the Calendar of events issued, ~~the date of election~~ the date was fixed for 2-2-1942 It is clear that the postponement of the date originally fixed was with a view to adhere to the Rules though, however, the President was not right in postponing the date originally fixed without the sanction of the competent authority Further, there have been no objections against the election now held. It is also seen that all the members at the election have voted in favour of the successful Candidate

Having regard to these facts it is for orders if the election may not be approved as the irregularities

Election of President Trunkur Town Municipal Council

4757

General and Revenue Secretariat | ML File No | of 1941 | [App F III—2

Serial No

reported cannot perhaps be considered as material and as there is no miscarriage of procedure

Submitted for orders with reference to 17 2 42 Paras 15 & 16 of note

17/2 20) The election of the non-official President, Trunkur Municipality was held on 2.2.42 Mr. M V Rama Rao (Congress) has been unanimously elected as President, all the 16 councillors present having voted for him - except Mr Krishnaiyengar - Executive Engr & Ex officio member who was in the chair. He has submitted the proceedings for the orders of Govt

21) Two points have been incidentally raised for orders

(1) whether there was a clear interval of 15 days between the dates of issue of notice of the meeting & the actual date of the election meeting. The election was arranged to be held on

NOTE—Contn Sheet

WD 01155—GI B—55 000—8 10 41

Election of President — Tumkur Town MC

ML File No of 1941 | General and Revenue Secretariat

Serial No

31 / 1942 according to the Calendar of events published on 15 / 1942 subsequently the President altered it to 3 2-42 on the ground that, as required by G O No 2-8-15 dated 14 X 1940, the interval was less than 15 days The D-C however holds that excluding the date of issue of notice i.e 15-1-42 & the date of meeting i.e. 31 1 42, there was a clear interval of 15 days On computing the period, the President seems to have taken into consideration that the date of issue of notice but the date of is actually reaching the members i.e. the 16th January which is excluded in the calculation. The D.C's view in regard to this matter appears to be correct

(2) Whether the action of the President in having extended the date of the meeting as above was in order

The D-C considers that, under the rules regulating the election of Presidents & Vice-Presidents of Municipal Councils, the President has no power to extend the date of period prescribed by him, as is provided for in the case of general or by-elections to Municipal

Election of president - Tirunelveli Town MC

7

General and Revenue Secretariat

MC File No of 193 [App. F. III-2

Serial No

22) It is a fact that there is no provision in the rules for altering the date once fixed but it may be pointed out that it is up to the authority to correct or rectify a mistake which, according to his lights, he may have subsequently discovered or has been brought to his notice may cannot be construed to be an irregularity

23) It is however a fact that no objection was raised by any of the members or the rate-payers to such an alteration of the date from 31/12/82 to 3/2/83 no objection petition has also been preferred by any of the members of the MC challenging the validity of the election on question

24) Having regard to these facts, etc the orders of the two persons raised above are to be treated to be such material irregularity as to invalidate the proceedings in question The Law section may

× within 7 days as prescribed under rule 7 of the Election rules (vide 4 & 6 of the Nomination)

NOTE—Contn Sheet

Election of President — Jagalur Town Mr. [illegible]

4759

ML File No 56 of 1941

General and Revenue Secretariat

Serial No

perhaps be consulted on the matter /3/

Law Secy for 18/2/42

A Copy of the Election Rules is put up on the file for kind reference and return

SECY LAW DEPT 1491 18 FEB 1942 GOVT OF MYSORE

Hon 2 18/2/42

Asst Secy Law Secy for 18/2/42

REV SECRET Law 19 FEB 1942 457 P/42

Legal opinion 178 dt no 4 P 42 dt 19 2 42

Election of a non Muslim President for the 4571
P-41 Tuticorin Timothy

(S) S III—3]

4759/L

ROUTINE NOTES

[To be used only for notes requisitions, etc , not intended for permanent record]

× 1) File Containing ~~the~~ Memo no L 8-15 dated 16th October 1948 forwarding a Copy of letter addressed to Dr Shimoga to D.C. Tumkur District

2) File Containg notification no. L 7832 - Mbl 86-39-93 dated 13th March 1960

It is noticed that the marginalia containing the letter & the notification referred to in paras 2 and 5 of the P & D respectively are not found in the file

~~The~~ It is for orders if the file may be sent to the L S G Branch for kindly putting up these references also

Ks — Please get the references checked

3/2/62

(for L S G Br)

Kms 27/2

The 1st & 2nd

The Distr. Collector Tumkur has been addressed

Kms 28/2

The collection contained in the ~~letter~~ memo dated 13-3-60 is placed below.

Flag O

The file containing the × memo no L 8-15 dt 14-10-48, is not readily available but a copy of the said letter is put up.

Kms 3/3/62

WD 05639—36 000—GPB—20 3 40

N B —*Should routine notes be written on small slips the notes must be copied or slips pasted on this form*

Asst Secy (Law) for 3/3/62

Serial No

According to the views of the Hospitality Committee formed on the POD, the Election of the President of the Durban Town Municipal Council held on 2.2.42 has to be set aside, as the Election proceedings are not valid in law. The facts of the case are noted in full on the POD

Flag O is the Calendar of Events issued by the Respondent Flag A is the memo issued later, changing the date of the meeting noted in Flag O, from 31-1-42 to 2.2.42 It is held by the Petitioner that once the Rules the Respondent has no power to change the date as such, the proceedings held on 2.2.42 are invalid in law

So far as I can see there does not seem to be any rule to the effect that once a Calendar of events is issued, the issuing authority cannot change the date in the event of some doubt, short-comings of Statutory provisions have to be complied with when conducting Election proceedings, I do not see any non-compliance of Statutory provisions in this case

It may be that the Respondent acted in changing the date of the meeting from

NOTL—Cont Sheet

45-1/6

File No of 194

General and Revenue Secretariat

Serial No

31/1/42 to 2/2/42, may be deemed to be ~~illegal~~ an irregularity — but only material irregularities or irregularities which affect the merits of the proceedings, render an act invalid in law. Such is not the case here. The members attended the meeting at the altered date, & the election proceedings were conducted in order; & as such the mere fact that the Presidt altered the date of the meeting, does not make the election proceedings invalid, as opined by the Deputy Commissioner.

No doubt, there was no necessity to change the date of the meeting from 31/1/42 to 2/2/42, but, from the date of the issue of notice on 15/1/42 there were clear 15 days for the meeting to be held on 31/1/42.

Anyway, I do not hold the election to be invalid in law.

Law Secretary 3/4/3/42

SECY LAW DEPT 1917 GOVT O- MYSORE

The changing of the date is a mere irregularity and not an illegality so as to vitiate the proceedings. The case would have been different, if there had been a curtailment of the interval by the

Election of the President 4759/L Tumkur Taluk 4571 to be 4341/L

General and Revenue Secretariat | File No | of 194 | [App F III-2

Serial No

act of the President. According to the rule, the date of the meeting should not be later than two months from the date of occurrence of the vacancy and it must be preceded by ~~at least~~ a 15-days notice. It is only the violation of these factors that would make the proceedings illegal. Other irregularities are curable. Moreover there has been no protest by any of the Councillors and no substantial injury has been proved in this case.

Hence the meeting seems to be in order.

The election may be approved.

Minister L S G

Hm 2 5 3 42

3 5/3/42

7 3 42 May 9/3

Asst Secy L S G under Rules

Draft with attached

9/3/42

Submitted with a draft notification for kind perusal

Dewan

Kind 10 3 42

Ok 10/3

The Secy on leave today

10/3/42

NOTE—Cont. Sheet

WD C4155—GPB—5m 000—23 10 41

Hon'ble Minister

11/3/42

DEWAN'S OFFICE 10 MAR 1942

OFFICE OF THE MINISTER FOR L S G & P I Dn 5-3-41 No 5341

ML File No 56 of 194 1

General and Revenue Secretariat

Serial No

To

The Compiler Rep's Gaz

No L 8335-d 13-3-42

Notifies the election of Mr M V Rama Rao as the president of the Trunkus Town Hall Bd B

MU 56-41-142

URGENT

GOVERNMENT OF MYSORE

4341/2

Telegraphic Address

OFFICE OF
The Deputy Commissioner,
Tumkur District,
Tumkur

No A-6-C- 2919/41-42
Encls One calendar

Date 26th January 1942

To
SECY LAW DEPT
27 JAN 1942
GOVT OF MYSORE

GEN & REV SECTION

H V Narayana Rao, Esq , B A ,LL B ,
Secretary to Govt of Mysore,
Law Department, Bangalore

Sir,

Re Election of a non-official President for Tumkur Town Municipal Council

In forwarding herewith the calendar of events received from the President, Tumkur Town Municipal Council, on the above subject, I have the honor to state as follows -

The present Council was re-constituted from 1-1-1941 and the election of Mr K Ranga Iyengar, as non-official President of this Town Municipal Council, was approved by Government in their Notification No L 5894/Ml dated 6th February 1941 as the term of the present President expires on 5th February 1942 since limited to one year in accordance with G O No L 6268-9/ Ml 36-36-65 dated 25th February 1937, a calendar of events has been got prepared for the purpose by the Municipality and the date of election is fixed to 31st instant, i e even before the occurrence of the vacancy of the office of the President, as contemplated in the Election Rules issued with Notification No L 3055/ Ml 207-27-1 dated 26th November 1927 According to this rule, the date of meeting shall be (1) not later than two months (b) from the date of the occurrence of the vacancy when the office of an elected President becomes vacant otherwise etc ,

In this connection, I may state that hitherto, the elections were being held in accordance with the above Election Rules and in the interim period, the Vice President used to look after the work of the President in addition to his work

I

I request that clear instructions may be kindly issued in the matter

I have the honor to be,
sir,
Your most obedient servant,

T Lingaraja Rao

Deputy Commissioner,
Tumkur District

AD 26/1

H C 83
41-42

Office of the President,
Town Municipal Council,
Dated, Tumkur the 15th Jan. 1942

Memo

The term of the non-official elected President of the Tumkur Town Municipal Council, the election of whom was approved in Government Order No L.5894/41 dated, Bangalore 6-2-41 expires on 5-2-42. It is hereby notified that a meeting of the Municipal Council will be held on Saturday the 31st January 1942 at 5 p m in the Sri Krishnarajendra Town Hall for the purpose of electing a President to the Municipal Council in accordance with the rules for a period of one year

10061

OFFICE OF THE DEPUTY C... 16 JAN 1942 TUMKUR

Sd/ K Rangiengar
President,
Town Municipal Council,
TUMKUR

CALENDAR OF EVENTS FOR THE ELECTION OF PRESIDENT.

1	Issue of notice of the above meeting (Proviso to Rule one)	15-1-42 Thursday
2	Nomination of candidates to the Presidentship by at least two non-official councillors in the prescribed form (Rule 2)	Before 5 p m on 24-1-42 Saturday
3	Notifying the names of candidates in the Municipal Office (Rule 3)	5 p m 26-1-42 Monday
4	Meeting of the Municipal Council for the election of the President	31-1-42 Saturday at 5 P.M.

Sd/ K Rangiengar,
President,
Town Municipal Council,
TUMKUR.

1 Copy forwarded with compliments to the Deputy Commissioner, Tumkur District, Tumkur for favour of information

2 Copy to all the Municipal Councillors with a nomination form

3 Copy to the Notice Board of the Municipal Office

President,
Town Municipal Council
TUMKUR

K N.R.

MU 56-41-143 4759/L

OFFICE OF THE DEPUTY COMMISSIONER
TUMKUR DISTRICT

No. A-6 C 2919/41-42 DATED TUMKUR THE 16TH FEBRUARY 42

Secy (one) file

SECT & P SECR 17 FEB 1942 CH

From

SECY LAW DEPT. 17 FEB 1942 GOVT OF MYSORE

P Suryanarayana Setti, Esquire, B A , LL B ,
Deputy Commissioner
Tumkur District

To

H V Narayana Rao, Esquire , B A LL B ,
Secretary to the Government of Mysore,
Law Department Bangalore

Sir,

Re - ELECTION OF A NON-OFFICIAL PRESIDENT FOR THE TUMKUR TOWN MUNICIPALITY

1) In continuation of this office letter of even number dated 21st, January 1942 on the above subject, stating that the election was notified to be held even before the occurrence of the vacancy of the office of the President and further seeking instructions in the matter, I have the honour to state as follows -

2) The President states in his memo No H C 83/41-42 dated 29th January 1942 (a copy of which is herein enclosed) that the date of the event mentioned in the last item of the Calendar of Events published with his office memo of even number dated 15th January 1942 (viz, Meeting of the Municipal Council for the election of the President on 31-1-42) had to be changed to 2nd February 1942 as it was found that clear 15 days' notice of the date of election was not given to the members in accordance with instructions conveyed in your Memo No L 8-15 dated 14th October 1940 (forwarding a copy of letter addressed to the Deputy Commissioner,

Shimoga District in regard to a dispute in connection with a bye-election in the Shimoga Town Municipal Council) since the notice of the meeting ~~having~~ reached them on the 16th January 1942 through post

3) The election was held on 2nd February 1942 and the President has communicated the results of the election to this office as required under the Election Rules It is stated that originally 8 candidates, as noted in the margin* were nominated for the office of the president, of whom two Councillors, Viz , Messrs R Venkata Rao and K Narayana Setti, withdrew their candidature before the date of election, leaving the remaining six candidates to contest the election, On the day of election, it is stated that four out of the remaining six candidates, withdrew at the time of the meeting, finally leaving Messrs - M L Narayana Rao and M V Rama Rao (Congress) to contest the election Out of the seventeen members that were present, all except Mr Krishna Iyengar (nominated official Councillor) participated in the election proceedings and when the votes were counted, it was found out, that the Congress candidate Mr M V Rama Rao had secured all the 16 votes and thus declared duly elected, as the non-official President of the Tumkur Town Municipal Council

* Messrs -
R Venkata Rao,
M L Narayana Rao,
B Ramachandra Rao,
K Narayana Setty,
K Ranga Iyengar,
T Mohiyuddin Khan,
M V Rama Rao,
T A Mohamed Abeed

4) In this connection I wish to state that two issues, require to be considered, viz , 1) whether there is clear 15 days interval between the date of notice and the date of election 2) whether the action of the President, in extending the date of election, is regular As regards the first issue, the proviso to the election rules issued with notification ~~number~~ No. L 3055-M L 207-27-1 dated 26th November 1927, contemplates, that at least 15 days notice of every such meeting shall be given during the said period of one or two months, as the

page 45 of 6 The copy of Rules is with him up

the case may be, by the Vice President or in his absence by the Chief Executive Officer of the Municipal Council, and no mention is made about the service of the notice, on the members of the proposed meeting In this case, there is a clear interval of 15 days even after excluding the day of the act and that of the event, as referred to in your memo above (The notice was published on the 15th January 1942 (evening) and sent to the members the same day) There is thus a clear interval of 15 days between the 16th and 30th both days inclusive.

5) Under the existing election rules, the President has no power to change the date of election or any of the stages of election, which has been done by him in the present case It is only in the case of general or bye-elections that Government, have been pleased to empower the Deputy Commissioners, that, they may, for sufficient reasons, enlarge the periods or alter the dates, fixed for the several stages of election in the case of any Municipality under the election rules and not in regard to Rules regulating the elections of Presidents and Vice Presdents of Municipal Councils (vide Notification No L 7832-M L 86-39-93 dated 13th March 1940

× not found in the file

6) If, as I have stated above, my interpretation of the Rules is correct, the entire election proceedings now held would become invalid and will have to be therefore set aside

7) I request that orders of Government may be kindly be obtained in the matter

8) A copy of the proceedings of the special meeting held on 2nd February 1942 is also herein enclosed No objection petition has, however, been received from any of the councillors of this Municipality, contesting the validity of the election of the candidate

I have the honour to be,
sir,
Your most obedient servant,

P Sivaprakasam Setty
Deputy Commissioner,
TUMKUR DISTRICT

GOVERNMENT OF HIS HIGHNESS THE MAHARAJA OF MYSORE

Abs

No L8335 ✓

ML56-41-153

General and Revenue Secretariat,

Dated Bangalore, 13 March 1942.

NOTIFICATION

Under Section 23 (2) (c) and the proviso to Sub-section (12) thereto, of the Mysore Town Municipalities Act, 1933, Mr. M.V. Rama Rao is elected as the President of the Tumkur Town Municipal Council, Tumkur District.

By Order,

Secretary to Government,
Law Department.

To--The Compiler, Mysore Gazette for publication in Part III-3 of Gazette and supply of ten copies thereof to the Secretariat and to the Deputy Commissioner of the District concerned.

PSH/12.

GOVERNMENT OF HIS HIGHNESS THE MAHARAJA OF MYSORE

No L 8335
ML 56-41-153

General and Revenue Secretariat

Dated Bangalore, 13 March 1942.

NOTIFICATION

Under Section 23 (2) (c) and the proviso to Sub-section (12) thereto, of the Mysore Town Municipalities Act, 1933, Mr. P.V. Rama Rao is elected as the President of the Tumkur Town Municipal Council, Tumkur District.

By Order,

for Secretary to Government,
Law Department.

To—The Compiler, Mysore Gazette for publication in Part III-3 of Gazette and supply of ten copies thereof to the Secretariat and to the Deputy Commissioner of the District concerned.